

2007 NOV -7 PM 5:46

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Moira MARX-NIR, et al

Serial No.: 10/044,941

Filed: January 15, 2002

For: Compositions And Methods For Treating Skin Ailments

Examiner: Shobha Kantamneni

~~~~~

Group Art Unit: 1617

**Attorney Docket: 01/22042**

**Mail Stop 16**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

## REQUEST FOR REFUND UNDER 37 CFR 1.26

**Sir:**

During the course of prosecuting the above-identified application, Applicant filed a Request for Continued Examination (RCE) on April 25, 2006.

Applicant, through error and mistake, erred in calculating the fees required when filing an RCE, and authorized excess filing fee payments based on the total number of claims then pending in the application, as well as the \$395.00 RCE fee, even though no additional claims were introduced at the time of filing of the RCE's.

These authorized charges were then debited from Applicant's Deposit Account 501407. It is requested that these excess charges, made by mistake, be refunded to Applicants Deposit Account 501407.

**The details of the errors are as follows:**

Applicant authorized (see attachment) the RCE filing charge of \$ 395, as well as \$ 775 for 31 additional claims over 20, and \$300 for 3 additional independent claims over 3, even though the above claims had been previously been paid for and no new claims

over those previously paid for were introduced with the filing of the RCE. These charges were debited on April 26, 2006 from Applicants Deposit Account 501407, and are highlighted in the attached April 2006 Deposit Account Statement. The charges for the excess claims fees (Fee Codes 2201 and 2202) were not required and paid by mistake.

**A refund of \$ 1,075 is deemed to be in order.**

Applicant only became aware of the error in calculating RCE filing charges recently.

Applicant has not previously asked for a refund of these charges made in error.

Applicant has not been refunded the excess charges requested herein.

This request for refund is being made within two years of the charge against the Deposit Account.

This request for refund is clearly one that was paid by mistake, and in excess of that required and is contemplated by 37 CFR 1.26.

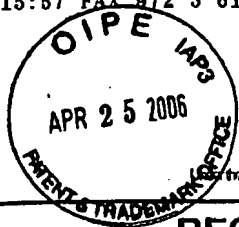
Favorable consideration of this Refund request is earnestly solicited.

Respectfully submitted,



Martin Moynihan,  
Registration No. 40,338

Date: October 30, 2007



PTO/SB/20 (06-00)  
Approved for use through 10/31/2012 OMB 0631-0031  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE  
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\$ RCE  
IPW

|                                                                                                                                                                                                                                                                                                                      |                        |                   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-------------------|
| <b>REQUEST<br/>FOR<br/>CONTINUED EXAMINATION (RCE)<br/>TRANSMITTAL</b><br><br>Subsection (b) of 35 U.S.C. § 132, effective on May 29, 2000,<br>provides for continued examination of an utility or plant application<br>filed on or after June 8, 1995.<br>See The American Inventors Protection Act of 1999 (AIPA). | Application Number     | 10/044,941        |
|                                                                                                                                                                                                                                                                                                                      | Filing Date            | January 15, 2002  |
|                                                                                                                                                                                                                                                                                                                      | Examiner Name          | Shobha Kantamneni |
|                                                                                                                                                                                                                                                                                                                      | First Named Inventor   | Maira MARX-NIR    |
|                                                                                                                                                                                                                                                                                                                      | Group Art Unit         | 1617              |
|                                                                                                                                                                                                                                                                                                                      | Attorney Docket Number | 01/22042          |

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.  
NOTE: 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53 (d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Provisional Application Practice, Final Rule, 65 Fed. Reg. 50092 (Aug. 15, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47 (Apr. 11, 2000), which established RCE practice.

1. **Submission required under 37 C.F.R. § 1.114**
  - a. ☐ Previously submitted
    - i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on \_\_\_\_\_  
(Any unentered amendment(s) referred to above will be entered).
    - ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
  - b. ☒ Enclosed
    - i. ☒ Amendment/Reply
    - ii. ☐ Affidavit(s)/Declaration(s)
    - iii. ☐ Information Disclosure Statement (IDS)
    - iv. ☒ Other **Two (2) Month Extension fee (One (1) Month Less Previously Paid)**
    - v. ☐ Other
2. **Miscellaneous**
  - a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for  
a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(f) required)
  - b. ☐ Other \_\_\_\_\_
3. **Fees** The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when the RCE is filed.

|                                         |          |    | SMALL ENTITY<br>RATE FEE |               | OTHER THAN A SMALL ENTITY<br>RATE FEE                                       |           |
|-----------------------------------------|----------|----|--------------------------|---------------|-----------------------------------------------------------------------------|-----------|
| Request for Continued Examination (RCE) |          |    | 1                        | \$ 395        | 04/26/2006 JADD01 00000044 501407 10844941                                  |           |
| Multiple Dependent Claims               |          |    | 0 x \$ 180               | \$ 0          | 01 FC:2001 395.00 DA<br>02 FC:2202 \$ 360 775.00 DA<br>03 FC:2201 300.00 DA |           |
| Total Claims                            | 51 - 20= | 31 | 31 x \$ 25               | \$ 775        | x \$ 50                                                                     | \$        |
| Independent Claims*                     | 6 - 3=   | 3  | 3 x \$ 100               | \$ 300        | x \$ 200                                                                    | \$        |
|                                         |          |    | <b>TOTAL</b>             | <b>\$1470</b> | <b>TOTAL</b>                                                                | <b>\$</b> |

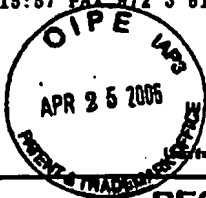
☒ The Commissioner is hereby authorized to charge \$1470.- filing fees to Deposit Account No. 50-1407. In the event additional fees are required, please charge these additional fees to Deposit Account No. 50-1407. In the event of overpayment, please credit Deposit Account No. 50-1407.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED 12/05/2007 NOEDREN1

|                      |                           |                  |                                              |
|----------------------|---------------------------|------------------|----------------------------------------------|
| Name<br>(Print/Type) | Martin D. Moynihan        | Registration No. | 04/26/2006 JADD01 00000044 501407 10844941   |
| Signature            | <i>Martin D. Moynihan</i> | (Attorney/Agent) | 02 FC:2202 775.00 CR<br>03 FC:2201 300.00 CR |
|                      |                           | Date             | April 25, 2006                               |

25/04 06 TUE 15:57 FAX 972 3 8127675

G. E. EHRLICH



004

*\$ RCE*  
*IPW*

Approved for use through 10/31/2002. OMB 031-0031  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1995, responses are required to respond to a collection of information unless it displays a valid OMB control number.

# REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Subsection (b) of 35 U.S.C. § 132, effective on May 29, 2000,  
provides for continued examination of an utility or plant application  
filed on or after June 8, 1995.  
See The American Inventors Protection Act of 1999 (AIPA).

|                        |                   |
|------------------------|-------------------|
| Application Number     | 10/044,841        |
| Filing Date            | January 16, 2002  |
| Examiner Name          | Shobha Kantamneni |
| First Named Inventor   | Molra MARX-NIR    |
| Group Art Unit         | 1617              |
| Attorney Docket Number | 01/22042          |

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.  
NOTE: 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53 (d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Provisional Application Practice, Final Rule, 65 Fed. Reg. 50092 (Aug. 10, 2000); Interim Rule, 65 Fed. Reg. 14883 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47 (Apr. 11, 2000), which established RCE practice.

1. Submission required under 37 C.F.R. § 1.114.
  - a. ☐ Previously submitted
    - i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on \_\_\_\_\_  
(Any unentered amendment(s) referred to above will be entered).
    - ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
  - b. ☒ Enclosed
    - i. ☒ Amendment/Reply
    - ii. ☐ Affidavit(s)/Declaration(s)
    - iii. ☐ Information Disclosure Statement (IDS)
    - iv. ☒ Other Two (2) Month Extension fee (One (1) Month Less Previously Paid)
    - v. ☐ Other \_\_\_\_\_
2. Miscellaneous
  - a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(d) required)
  - b. ☐ Other \_\_\_\_\_
3. **Fee:** The RCE fee under 37 C.F.R. § 1.17(c) is required by 37 C.F.R. § 1.114 when the RCE is filed.

|                                         |          |    | SMALL ENTITY |               | OTHER THAN A SMALL ENTITY                                                   |           |
|-----------------------------------------|----------|----|--------------|---------------|-----------------------------------------------------------------------------|-----------|
|                                         |          |    | RATE         | FEE           | RATE                                                                        | FEE       |
| Request for Continued Examination (RCE) |          |    | 1            | \$ 395        | 04/26/2006 JAD001 88882949601487 1884941                                    |           |
| Multiple Dependent Claims               |          |    | 0 x \$ 180   | \$ 0          | 81 FC:2881 395.00 0A<br>82 FC:2282 \$ 360 775.00 0A<br>83 FC:2281 388.00 0A |           |
| Total Claims                            | 51 - 20= | 31 | 31 x \$ 25   | \$ 775        | x \$ 50                                                                     | \$        |
| Independent Claims*                     | 6 - 3=   | 3  | 3 x \$ 100   | \$ 300        | x \$ 200                                                                    | \$        |
|                                         |          |    | <b>TOTAL</b> | <b>\$1470</b> | <b>TOTAL</b>                                                                | <b>\$</b> |

☒ The Commissioner is hereby authorized to charge \$1470.- filing fees to Deposit Account No. 50-1407. In the event additional fees are required, please charge these additional fees to Deposit Account No. 50-1407. In the event of overpayment, please credit Deposit Account No. 50-1407.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

|                   |                           |                                   |                |
|-------------------|---------------------------|-----------------------------------|----------------|
| Name (Print/Type) | Martin D. Moynihan        | Registration No. (Attorney/Agent) | 40,338         |
| Signature         | <i>Martin D. Moynihan</i> | Date                              | April 25, 2006 |



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Patent and  
Trademark Office**



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Page**Deposit Account Statement**

**Requested Statement Month:** April 2006  
**Deposit Account Number:** 501407  
**Name:** G E EHRLICH (1995) LTD.  
**Attention:** A J CASTORINA  
**Address:** 2001 JEFFERSON DAVIS HIGHWAY  
**City:** ARLINGTON  
**State:** VA  
**Zip:** 22202  
**Country:** UNITED STATES

| DATE  | SEQ | POSTING<br>REF TXT | ATTORNEY<br>DOCKET<br>NBR | FEE<br>CODE | AMT       | BAL          |
|-------|-----|--------------------|---------------------------|-------------|-----------|--------------|
| 04/03 | 8   | 11390301           | 30764                     | 8021        | \$40.00   | \$117,357.55 |
| 04/03 | 2   | 10559929           | 30800                     | 1641        | -\$100.00 | \$117,457.55 |
| 04/03 | 3   | 10559929           | 30800                     | 2641        | \$50.00   | \$117,407.55 |
| 04/03 | 31  | 11390372           | 29533                     | 8021        | \$40.00   | \$117,367.55 |
| 04/03 | 4   | 10561839           | 30024                     | 2632        | -\$250.00 | \$117,617.55 |
| 04/03 | 5   | 10561839           | 30024                     | 2641        | \$50.00   | \$117,567.55 |
| 04/03 | 203 | 60778383           | 31674                     | 8021        | \$40.00   | \$117,527.55 |
| 04/03 | 204 | 60776696           | 31663                     | 8021        | \$40.00   | \$117,487.55 |
| 04/03 | 205 | 6363482            | 00/21307                  | 8021        | \$40.00   | \$117,447.55 |
| 04/03 | 206 | 10561220           | 30698                     | 8021        | \$40.00   | \$117,407.55 |
| 04/03 | 207 | 11328221           | 31290                     | 8021        | \$40.00   | \$117,367.55 |
| 04/03 | 208 | 60774672           | 31614                     | 8021        | \$40.00   | \$117,327.55 |
| 04/03 | 209 | 60774191           | 31596                     | 8021        | \$40.00   | \$117,287.55 |
| 04/03 | 210 | 60774647           | 31619                     | 8021        | \$40.00   | \$117,247.55 |
| 04/03 | 211 | 11354930           | 31206                     | 8021        | \$40.00   | \$117,207.55 |
| 04/03 | 243 | 10851667           | 28030                     | 8021        | \$40.00   | \$117,167.55 |
| 04/03 | 188 | 60655842           | 28988(31806)              | 8007        | \$20.00   | \$117,147.55 |
| 04/03 | 189 | 60708765           | 30192(31426)              | 8007        | \$20.00   | \$117,127.55 |
| 04/03 | 460 | PCT/IL05/00735     | 28367                     | 1605        | \$600.00  | \$116,527.55 |
| 04/03 | 461 | PCT/IL05/00735     | 28367                     | 1705        | \$155.00  | \$116,372.55 |
| 04/03 | 190 | 60708765           | 30192(31427)              | 8007        | \$20.00   | \$116,352.55 |
| 04/03 | 124 | 10130150           | 02/23831                  | 2252        | \$225.00  | \$116,127.55 |
| 04/04 | 164 | 10333680           | 25254                     | 2252        | \$225.00  | \$115,902.55 |
| 04/05 | 7   | 11395168           | 30621                     | 2011        | \$150.00  | \$115,752.55 |
| 04/05 | 8   | 11395168           | 30621                     | 2111        | \$250.00  | \$115,502.55 |
| 04/05 | 10  | 11395168           | 30621                     | 2202        | \$75.00   | \$115,427.55 |
| 04/05 | 9   | 11395168           | 30621                     | 2311        | \$100.00  | \$115,327.55 |
| 04/05 | 14  | 11395172           | 31696                     | 2011        | \$150.00  | \$115,177.55 |
| 04/05 | 16  | 11395172           | 31696                     | 2311        | \$100.00  | \$115,077.55 |
| 04/05 | 15  | 11395172           | 31696                     | 2111        | \$250.00  | \$114,827.55 |

|           |          |              |      |            |             |
|-----------|----------|--------------|------|------------|-------------|
| 04/19 79  | 60792626 | 31892        | 2005 | \$100.00   | \$91,652.55 |
| 04/19 271 | 09761153 | 00/21263     | 2501 | \$700.00   | \$90,952.55 |
| 04/19 272 | 09761153 | 00/21263     | 1504 | \$300.00   | \$90,652.55 |
| 04/20 1   | 10498345 | 27947        | 2201 | \$100.00   | \$90,552.55 |
| 04/20 214 | 10575707 | 31254        | 2631 | \$150.00   | \$90,402.55 |
| 04/20 215 | 10575707 | 31254        | 2632 | \$250.00   | \$90,152.55 |
| 04/20 216 | 10575707 | 31254        | 2633 | \$100.00   | \$90,052.55 |
| 04/20 217 | 10575707 | 31254        | 2615 | \$500.00   | \$89,552.55 |
| 04/20 218 | 10575707 | 31254        | 2614 | \$200.00   | \$89,352.55 |
| 04/20 219 | 10575707 | 31254        | 8021 | \$40.00    | \$89,312.55 |
| 04/20 140 | 10226693 |              | 2251 | \$60.00    | \$89,252.55 |
| 04/20 1   | 6511487  |              | 2551 | \$450.00   | \$88,802.55 |
| 04/21 283 | 10575809 | 30825        | 1631 | \$300.00   | \$88,502.55 |
| 04/21 284 | 10575809 | 30825        | 1632 | \$500.00   | \$88,002.55 |
| 04/21 285 | 10575809 | 30825        | 1633 | \$200.00   | \$87,802.55 |
| 04/21 286 | 10575809 | 30825        | 1615 | \$1,350.00 | \$86,452.55 |
| 04/21 287 | 10575809 | 30825        | 1614 | \$600.00   | \$85,852.55 |
| 04/21 288 | 10575809 | 30825        | 8021 | \$40.00    | \$85,812.55 |
| 04/24 31  | 10548375 | 30055        | 2632 | -\$250.00  | \$86,062.55 |
| 04/24 32  | 10548375 | 30055        | 2641 | \$50.00    | \$86,012.55 |
| 04/24 459 | 10562852 | 31230        | 2617 | \$65.00    | \$85,947.55 |
| 04/24 280 | 11125181 | 29769(31908) | 8007 | \$20.00    | \$85,927.55 |
| 04/24 281 | 60682015 | 29889(31911) | 8007 | \$20.00    | \$85,907.55 |
| 04/24 282 | 11121048 | 29228(31919) | 8007 | \$20.00    | \$85,887.55 |
| 04/25 258 | 60789579 | 31800        | 8021 | \$40.00    | \$85,847.55 |
| 04/25 55  | 10237033 | 24970        | 2252 | \$225.00   | \$85,622.55 |
| 04/25 6   | 10548095 | 30589        | 1632 | -\$500.00  | \$86,122.55 |
| 04/25 7   | 10548095 | 30589        | 1641 | \$100.00   | \$86,022.55 |
| 04/25 8   | 10548095 | 30589        | 1614 | \$400.00   | \$85,622.55 |
| 04/25 9   | 10548095 | 30589        | 1615 | \$2,800.00 | \$82,822.55 |
| 04/26 274 | 60778854 | 31680        | 8021 | \$40.00    | \$82,782.55 |
| 04/26 69  | 10044941 | 01/22042     | 2801 | \$395.00   | \$82,387.55 |
| 04/26 72  | 10044941 | 01/22042     | 2252 | \$165.00   | \$82,222.55 |
| 04/26 71  | 10044941 | 01/22042     | 2201 | \$300.00   | \$81,922.55 |
| 04/26 70  | 10044941 | 01/22042     | 2202 | \$775.00   | \$81,147.55 |
| 04/26 337 | 60776693 | 31656        | 8021 | \$40.00    | \$81,107.55 |
| 04/26 350 | 10569982 | 31672        | 8021 | \$40.00    | \$81,067.55 |
| 04/26 208 | 11410061 | 31821        | 2011 | \$150.00   | \$80,917.55 |
| 04/26 210 | 11410061 | 31821        | 2311 | \$100.00   | \$80,817.55 |
| 04/26 209 | 11410061 | 31821        | 2111 | \$250.00   | \$80,567.55 |
| 04/26 152 | 60794501 | 31142        | 2005 | \$100.00   | \$80,467.55 |
| 04/26 372 | 29258585 | 31736        | 1012 | \$200.00   | \$80,267.55 |
| 04/26 374 | 29258585 | 31736        | 1312 | \$130.00   | \$80,137.55 |
| 04/26 373 | 29258585 | 31736        | 1112 | \$100.00   | \$80,037.55 |
| 04/27 90  | 60684517 | 29969(31536) | 8007 | \$20.00    | \$80,017.55 |
| 04/27 208 | 60794878 | 31554        | 1005 | \$200.00   | \$79,817.55 |
| 04/27 210 | 60794881 | 31924        | 2005 | \$100.00   | \$79,717.55 |
| 04/27 211 | 60794882 | 31581        | 1005 | \$200.00   | \$79,517.55 |
| 04/28 1   | 60794878 | 31554        | 1005 | -\$200.00  | \$79,717.55 |
| 04/28 2   | 60794878 | 31554        | 2005 | \$100.00   | \$79,617.55 |
| 04/28 185 | 60795161 | 31803        | 2005 | \$100.00   | \$79,517.55 |